

Appl. No. 10/657,785
Resp. dtd. Dec. 28, 2006
Resp. to Office action dtd. July 28, 2006

REMARKS

Claims 38-45 were pending in the application at the time of the Office Action, to which claims 46-54 have been added by this response.

The Office Action states that the Information Disclosure Statement ("IDS") filed June 3, 2006 fails to comply with 37 C.F.R. § 1.98(a)(2 and 3).

Claims 39-43 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent No. 5,224,152 to Harte ("*Harte*").

Claims 38 and 44-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Harte* in view of United States Patent No. 5,440,460 to Rypinski ("*Rypinski*").

For at least the reasons stated below, the Applicants respectfully traverse the above rejections and objections.

Turning first to the IDS submitted on June 3, 2006, as stated in the IDS, the references referred to in the IDS were brought to the attention of the Applicants during litigation of one or more patents related to the present application. The Applicants have not analyzed the content of all of the references. Nevertheless, the Applicants felt that, since such references were brought to the attention of the Applicants, the Applicants should submit such references to the Examiner for consideration in the present application.

At this time, the Applicants do not intend to analyze all of the non-English references and explain the relevance or non-relevance of such references. Accordingly, the Applicants request that the Examiner at least consider all references for which the IDS complies with 37 C.F.R. § 1.98(a)(3) and/or other IDS-related rules, and return the initialed PTO/SB/08A forms to the Applicants.

Additionally, the Applicants have submitted the best copies of various references that were provided to the Applicants in the aforementioned litigation. At this time, the Applicants do not intend to search for better copies of the various references. Accordingly, the Applicants request that the Examiner at least consider all references for which the IDS complies with 37 C.F.R. § 1.98(a)(2) and/or other IDS-related rules, and return the initialed PTO/SB/08A forms to the Applicants.

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On Dec. 28, 2006, the Applicants' representative and the Examiner discussed the IDS via telephone. In particular, the Applicants' representative and the Examiner discussed that the Applicants received initialed PTO/DB/08A forms for related application 10/630,138, which the Examiner is also examining, but did not receive such initialed forms for the present application. The Examiner stated that the Applicants should have received similarly initialed forms for each application. Since the Applicants did not receive such initialed forms for the present application, the Applicants respectfully request that such initialed forms be mailed to the Applicants.

Turning first to the rejection of claims 39-43 under 35 U.S.C. § 102 as being anticipated by *Harte*, the Applicants respectfully traverse this rejection.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 39, as currently amended, states "the node in an active state entering a low power state in response to at least a second timer signal".

The Applicants submit that *Harte* does not show any timer causing a node in an active state to enter a low power state. Accordingly, the Applicants submit that claim 39, as currently amended, is allowable.

Independent claim 40 states, "waking at a timed interval to receive a packet broadcast periodically in a broadcast packet time slot."

The Office Action, on page 3, states that *Harte* (in col. 4, line 23 to col. 6, line 35) shows "the node in a low power state waking at a timed interval ... to receive a packet broadcast periodically in a broadcast packet time slot."

The Applicants respectfully disagree with this characterization of *Harte*. For example, the Applicants have been unable to find where *Harte* discloses "a packet broadcast periodically" or "a broadcast packet time slot." As a non-limiting example, the present application discusses roaming terminals waking to attempt to receive a broadcast polling message, which may be

broadcast periodically. *Harte* merely discusses a device waking to analyze directed messages to determine whether the directed message is addressed to the device. *Harte* does not appear to show periodic broadcasting of a packet. For example, *Harte* does not indicate that any message would be sent if there were no data to communicate. Nor does *Harte* appear to show a broadcast packet time slot allocated for the transmission of such packets.

Accordingly, the Applicants submit that claim 40 is allowable over *Harte*, as are all claims depending therefrom, including claims 41 and 46-48.

Claim 41, as currently amended, depends from claim 40 and states, “wherein the node switches from the active state to the low power state if the node does not receive a message within a second timed interval.”

The Office Action, on page 4, states that *Harte* teaches “wherein the node switches from the active state to the low power state if the node does not receive a message within a predetermined period of time”, because “*Harte*’s device is only active long enough to decode two words i.e. a predetermined period of time, as shown in figure 6, boxes 204+, unless the message requires action).”

The Applicants respectfully disagree with this characterization of *Harte*. For example, as illustrated in FIG. 6 by the loop formed by blocks 206 and 208, the *Harte* device will decode any number of words until the reception and decoding of a word is validated. Then, the *Harte* device determines whether the validated word is addressed to the *Harte* device. There is no indication in *Harte* of switching from the active state to the low power state if the node does not receive a message within a second timed interval. In fact, there is no indication of *Harte*’s reception and decoding process being timed at all.

Accordingly, the Applicants submit that claim 41 is allowable over *Harte*, as are all claims depending therefrom, including new claims 46-48.

Independent claim 42 states “waking a node in a low power state at regular intervals”.

The Office Action, at page 4, states that *Harte* “teaches ... waking a node in a low power state at regular intervals” and refers to col. 3, lines 22-32 and col. 4, line 35 to col. 5, line 9.

The Applicants respectfully disagree with this characterization of *Harte*. For example, *Harte*, at col. 5, lines 35-58, clearly shows that *Harte*’s time duration “T”, during which *Harte*’s

microprocessor is powered down, is not regular. For example, *Harte*'s time duration "T" is calculated each sleep time and is a function of at least the number of words that have been repeated, the number of additional different words to come, and whether the MIN of the telephone is even or odd.

Additionally, claim 42 states "receiving at a waken node a message broadcast periodically in a broadcast message time slot." As explained earlier with regard to claim 40, *Harte* does not show "a message broadcast periodically" or "a broadcast message time slot".

Accordingly, for at least these reasons, the Applicants submit that claim 42 is allowable over *Harte*, as are all claims depending therefrom, including new claims 49-51.

Independent claim 43 states "waking a node in a low power state at regular intervals." As explained previously with regard to claim 42, *Harte* does not show such regular intervals. Also, claim 43 states "receiving at a waken node a message broadcast periodically in a broadcast message time slot". As explained previously with regard to claim 40, *Harte* does not show "a message broadcast periodically" or "a broadcast message time slot".

Additionally, claim 43 states "switching the node to the lower power state if a message is not received in the active state for a predetermined period of time."

The Office Action, on pages 4-5, states that *Harte* teaches "switching the node to the low power state if a message is not received in the active state within a predetermined period of time", because "Harte's device is only active long enough to decode two words i.e. a predetermined period of time, as shown in figure 6, boxes 204+, unless the message requires action)."

The Applicants respectfully disagree with this characterization of *Harte*. For example, as illustrated in FIG. 6 by the loop formed by blocks 206 and 208, the *Harte* device will decode any number of words until the reception and decoding of a word is validated. Then, the *Harte* device determines whether the validated word is addressed to the *Harte* device. There is no indication in *Harte* of switching from the active state to the low power state if the node does not receive a message within a predetermined period of time. In fact, there is no indication of *Harte*'s reception and decoding process being timed at all.

Accordingly, for at least these reasons, the Applicants respectfully submit that independent claim 43 is allowable.

Turning next to the rejection of claims 38 and 44-45 under 35 U.S.C. § 103(a) as being unpatentable over *Harte* in view of *Rypinski*, the Applicants respectfully traverse this rejection.

MPEP § 2142 states that in order for a *prima facie* case of obviousness to be established, three basic criteria must be met, one of which is that the reference or combination of references must teach or suggest all of the claim limitations. MPEP § 2143.03 states that to establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Independent claim 38 states “the node in the low power state switching to the active state at regular intervals to receive a broadcast polling message”.

The Office Action, on page 6, states that *Harte* (e.g., at col. 4, line 23 – col. 6, line 35) shows the node in the low power state switching to the active state at regular intervals to receive a broadcast message. As explained previously with regard to claim 42, *Harte*, at col. 5, lines 35-58, clearly shows that *Harte*’s time duration “T”, during which *Harte*’s microprocessor is powered down, is not regular. For example, *Harte*’s time duration “T” is calculated each sleep time and is a function of at least the number of words that have been repeated, the number of additional different words to come, and whether the MIN of the telephone is even or odd.

The Office Action, on page 6, also states that *Rypinski* shows the utilization of polling messages and that it would be obvious to modify *Harte*’s message to be a polling message. The Applicants respectfully disagree that such a modification of *Harte* would be obvious. However, for the sake of argument only, even if *Harte*’s message was a polling message, *Harte* still fails to show switching to the active state at *regular* intervals.

Accordingly, the Applicants respectfully submit that independent claim 44 is allowable over *Harte* and *Rypinski*, separately or in combination.

Independent claim 45 states, “switching the node from the active state to a low power state if a message is not received for a predetermined period of time in the active state”.

The Office Action, on page 7, states that *Harte* teaches “switching the node to the low power state if a message is not received in the active state within a predetermined period of

time”, because “Harte’s device is only active long enough to decode two words i.e. a predetermined period of time, as shown in figure 6, boxes 204+, unless the message requires action).”

The Applicants respectfully disagree with this characterization of *Harte*. For example, as illustrated in FIG. 6 by the loop formed by blocks 206 and 208, the *Harte* device will decode any number of words until the reception and decoding of a word is validated. Then, *Harte* determines whether the validated word is addressed to the *Harte* device. There is no indication in *Harte* of switching from the active state to the low power state if the node does not receive a message within a predetermined period of time. In fact, there is no indication of *Harte*’s reception and decoding process being timed at all.

The Office Action, on page 8, also states that *Rypinski* shows the utilization of polling messages and that it would have been obvious to modify *Harte*’s message to be a polling message. The Applicants respectfully disagree that such a modification of *Harte* would be obvious. However, for the sake of argument only, even if *Harte*’s message was a polling message, *Harte* still fails to show “switching the node from the active state to a low power state if a message is not received for a predetermined period of time in the active state”.

Accordingly, the Applicants respectfully submit that independent claim 45 is allowable over *Harte* and *Rypinski*, separately or in combination.

Turning next to new claims 46-48, such claims each depend from claims 40 and 41. Accordingly, such claims are allowable for at least the reasons presented previously with regard to claims 40 and 41. The Applicants also submit that each of claims 46-48 is independently allowable.

Turning next to new claims 49-51, such claims each depend from claim 42. Accordingly, such claims are allowable for at least the reasons presented previously with regard to claim 42. The Applicants also submit that each of claims 49-51 is independently allowable.

Turning next to new claims 52-54, such claims share many characteristics with claims 38-40, respectively. Accordingly, for at least reasons discussed previously with regard to claims 38-40, the Applicants submit that new claims 52-54 are allowable.

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The Office Action includes various statements regarding claims 38-45 and the *Harte* and *Rypinski* references, which are now moot in view of the previous amendments and/or comments. The Applicants neither agree nor disagree with such statements. However, the Applicants explicitly reserve the right to challenge any of such statements in the future should the need arise.

In summary, the Applicant believes that all pending claims 38-54 are in condition for allowance and courteously solicit a Notice of Allowability with respect to all pending claims.

At this point, the Applicants request an Examiner interview to discuss the Office Action and this response, in particular prior to the issuance of any final action on the merits. The Examiner may contact the undersigned at 312-775-8000 to schedule the interview at the Examiner's convenience. Also, if the Examiner has any questions regarding this submission, the Examiner is invited to contact the undersigned.

The Commissioner is hereby authorized to charge additional fees or credit overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,

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